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Phone: 870-270-2546
Fax:

Fax

To: James Petrucci Regional DI

From: Eugene Smith

Fax: 214-767-0156

Pages: 3

Re:

Date: May 18, 2009

200 South McClendon St., Forrest City, AR 72335

Eugene Smith
200 South McClendon Street
Forrest City, Arkansas 72335

May12, 2009

Federal Labor Relations Authority
Dallas Regional Office
525 S. Griffin Street, Suite 926, LB-107
Dallas, TX 75202-1906
214-767-6266 Phone
214-767-0156 Fax

Reference: Requesting the General Counsel Investigate Complaint

Dear James Petrucci Regional Director

I am requesting that the federal Labor Relations Authority assist me in determining if the U.S government is responsible for the fair treatment of my employment. As stated by the FLRA which states (C) facilitates and encourages the amicable settlements of disputes between employees and their employers involving conditions of employment.

My complaint with the U.S government is that I signed up to be a volunteer research subject not to be knowing of the situation being (Medical) at the time of entry into employment with the U.S Army/ U.S Department of defense. My employment with the agency began in 1969 and my deferred payroll compensation has been due since 2005.

What I would like clarified by FLRA is whether I have certain rights as an employee of the Federal government. I am in need of information on establishment of certain rights and obligations as an employee of the government.

I have not been able to establish fair treatment from the U.S Government. I have been attempting to deal with the agency (U.S Government) concerning grievances and conditions of employment. My request for mediation has been unsuccessful.

My complaint of unfair labor practices is that the (1) U.S Army/ U.S Department of Defense is denying my employment but continue to use my body to perform experimentation.(2) In these unfair conditions of employment I am being denied access to payments of deferred payroll compensation and benefits.

(3) The trustee breached the agreement of payment.


My request for the General Counsel to investigate is based on the following information from the FLRA website.

Title 5 U.S.C § 7118. Prevention of unfair labor practices

(a)(1) If any agency or labor organization is charged by any person with having engaged in or engaging in an unfair labor practice, the General Counsel shall investigate the charge and may issue and cause to be served upon the agency or labor organization a complaint. In any case in which the General Counsel does not issue a complaint because the charge fails to state an unfair labor practice, the General Counsel shall provide the person making the charge a written statement of the reasons for not issuing a complaint. Thank you for your cooperation in this matter.

Sincerely

Eugene Smith
870-270-2546

 <p>UNITED STATES OF AMERICA FEDERAL LABOR RELATIONS AUTHORITY</p> <p>CHARGE AGAINST AN AGENCY</p>		<p>FOR FLRA USE ONLY</p> <p>Case No. <u>DA-CA-09-0230</u></p> <p>Date Filed <u>MAY 19 2009</u></p>	
<p>Complete instructions are on the back of this form.</p>			
<p>1. Charged Activity or Agency</p> <p>Name: U.S Army</p> <p>Address: 1700 Army Pentagon Washington, D.C 20310-1700</p> <p>Tel.#: (703)601-1000 Ext.</p> <p>Fax#: (703) 607-5954</p>		<p>2. Charging Party (Labor Organization or Individual)</p> <p>Name: Eugene Smith</p> <p>Address: 200 South McClendon St. Forrest City, Arkansas 72335</p> <p>Tel.#: 870-270-2546 Ext.</p> <p>Fax#: ()</p>	
<p>3. Charged Activity or Agency Contact Information</p> <p>Name: Pete Geren</p> <p>Title: Secretary of Army</p> <p>Address: 1700 Army Pentagon Washington, D.C 20310-1700</p> <p>Tel.#: (703) 601-1000 Ext.</p> <p>Fax#: (703) 607-5954</p>		<p>4. Charging Party Contact Information</p> <p>Name: Pete Geren</p> <p>Title: Administrative Assistant to the Secretary</p> <p>Address: 105 Army Pentagon Washington, D.C 20310-0105</p> <p>Tel.#: (703) 604-3271 Ext.</p> <p>Fax#: ()</p>	
<p>5. Which subsection(s) of 5 U.S.C. 7116(a) do you believe have been violated? [See reverse] (1) and 7118</p>			
<p>6. Tell exactly WHAT the activity (or agency) did. Start with the DATE and LOCATION, state WHO was involved, including titles.</p> <p>I signed a agreement with the Department of U.S Army in 1969 to become a research participant. I am requesting that the federal Labor Relations Authority assist me in determining if the U.S government is responsible for the fair treatment of my employment. As stated by the FLRA which states (C) facilitates and encourages the amicable settlements of disputes between employees and their employers involving conditions of employment.</p> <p>My complaint with the U.S government is that I signed up to be a volunteer research subject not to be knowing of the situation being (Medical) at the time of entry into employment with the U.S Army/ U.S Department of defense. My employment with the agency began in 1969 and my deferred payroll compensation has been due since 2005.</p> <p>What I would like clarified by FLRA is whether I have certain rights as an employee of the Federal government. I am in need of information on establishment of certain rights and obligations as an employee of the government.</p> <p>I have not been able to establish fair treatment from the U.S Government. I have been attempting to deal with the agency (U.S Government) concerning grievances and conditions of employment. My request for mediation has been unsuccessful.</p> <p>My complaint of unfair labor practices is that the (1) U.S Army/ U.S Department of Defense is denying my employment but continue to use my body to perform experimentation.(2) In these unfair conditions of employment I am being denied access to payments of deferred payroll compensation and benefits.</p> <p>(3) The trustee breached the agreement of payment. (4) They have not released any medical information to my medical doctors (I have requested release of medical records) which I believe is a violation. (5) The U.S Army is violating Army regulations AR70-25 and AR70-40 on the treatment of Human Research Subjects. (6) The U.S Army is denying me due process.</p> <p>My request for the General Counsel to investigate is based on the following information from the FLRA website.</p> <p>Title 5 U.S.C § 7118. Prevention of unfair labor practices</p> <p>(a)(1) If any agency or labor organization is charged by any person with having engaged in or engaging in an unfair labor practice, the General Counsel shall investigate the charge and may issue and cause to be served upon the agency or labor organization a complaint. In any case in which the General Counsel does not issue a complaint because the charge fails to state an unfair labor practice, the General Counsel shall provide the person making the charge a written statement of the reasons for not issuing a complaint. The U.S Army is not revealing the information that i have been a employee.</p>			
<p>7. Have you or anyone else raised this matter in any other procedure? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes If yes, where? [see reverse]</p>			
<p>8. I DECLARE THAT I HAVE READ THIS CHARGE AND THAT THE STATEMENTS IN IT ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT MAKING WILLFULLY FALSE STATEMENTS CAN BE PUNISHED BY FINE AND IMPRISONMENT, 18 U.S.C. 1001. THIS CHARGE WAS SERVED ON THE PERSON IDENTIFIED IN BOX #3 BY [check "x" box] <input type="checkbox"/> Fax <input checked="" type="checkbox"/> 1st Class Mail <input checked="" type="checkbox"/> In Person</p> <p><input type="checkbox"/> Commercial Delivery <input type="checkbox"/> Certified Mail</p> <p>Eugene Smith 05/12/2009</p> <p style="text-align: center;">Type or Print Your Name Your Signature Date</p>			



UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
DALLAS REGION

A. Maceo Smith Federal Building
525 S. Griffin Street, Suite 926, LB 107
Dallas, Texas 75202-5093
(214)767-6266 FAX: (214)767-0156
www.flra.gov

May 20, 2009

Eugene Smith
200 South McClendon St.
Forrest City, AR 72335

Pete Geren
Secretary of the Army
1700 Army Pentagon
Washington, DC 20310-1700

Re: Department of Defense
United States Army
Washington, DC
Case No. DA-CA-09-0230

Dear Messrs. Smith and Geren:

Enclosed is a copy of the unfair labor practice charge which has been filed with this Office and assigned the case number shown above. To complete the investigation expeditiously, and to make a determination as to the merits of the charge, it is important that the parties cooperate fully during the ensuing investigation of the charge. You will be contacted shortly by the Agent who has been or will be assigned to investigate the charge. If you have any questions, please contact directly either the Agent or Regional Point of Contact indicated below.

If you are the party who filed the charge (Charging Party) and have not already done so, please submit the following so that it is **received** by this Office by June 1, 2009:

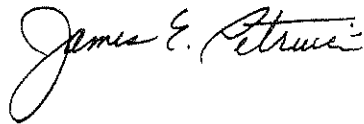
1. A list of witnesses – names, positions, day and evening telephone numbers, and a summary of their expected testimony about their personal knowledge of the charge;
2. Copies of all relevant documents, with an Index if submission is voluminous.

Section 2423.4(e) of the FLRA's Regulations requires that you provide this evidence/information. If you did not submit any evidence or information when you filed the charge and do not provide the material noted above so that this Office has **received** it by June 1, 2009, the charge may be dismissed for lack of cooperation. The Charging Party is responsible for confirming that all supporting evidence and information has been received by the date noted above.

If you are the party against whom this charge is filed (Charged Party), you are requested to review the allegations in the charge and submit a written position to this Office. You also are expected to cooperate fully in the investigation and will be asked by the Agent to supply documentary evidence or witnesses as is deemed necessary.

To assist both parties in understanding how an unfair labor practice charge is processed, I have enclosed an information sheet describing the investigatory process. Also, if someone other than you will be representing your party in this matter, please complete the enclosed "Notice of Designation of Representative."

Very truly yours,

A handwritten signature in cursive script, reading "James E. Petrucci".

James E. Petrucci
Regional Director

Assigned Agent or Regional Point of Contact:

William D. Kirsner, Attorney, 214-767-6266 ext.8016, E-mail wkirsner@flra.gov

Enclosed: Description of Unfair Labor Practice Investigation Procedure
 Notice of Designation of Representative



UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
CHARGE AGAINST AN AGENCY

FOR FLRA USE ONLY

Case No. DA-CA-09-0230

Date Filed MAY 19 2009

Complete instructions are on the back of this form.

1. Charged Activity or Agency

Name: U.S. Army
Address: 1700 Army Pentagon
Washington, D.C. 20310-1700
Tel.#: (703) 601-1000 Ext.
Fax#: (703) 607-5954

2. Charging Party (Labor Organization or Individual)

Name: Eugene Smith
Address: 200 South McClendon St.
Forrest City, Arkansas 72335
Tel.#: 870-270-2546 Ext.
Fax#: ()

3. Charged Activity or Agency Contact Information

Name: Pete Geren
Title: Secretary of Army
Address: 1700 Army Pentagon
Tel.#: (703) 601-1000 Ext.
Fax#: (703) 607-5954

4. Charging Party Contact Information

Name: Pete Geren
Title: Administrative Assistant to the Secretary
Address: 105 Army Pentagon
Washington, D.C. 20310-0105
Tel.#: (703) 604-3271 Ext.
Fax#: ()

5. Which subsection(s) of 5 U.S.C. 7118(a) do you believe have been violated? [See reverse] (1) and 7118

6. Tell exactly WHAT the activity (or agency) did. Start with the DATE and LOCATION, state WHO was involved, including titles.

I signed a agreement with the Department of U.S Army in 1969 to become a research participant. I am requesting that the federal Labor Relations Authority assist me in determining if the U.S government is responsible for the fair treatment of my employment. As stated by the FLRA which states (C) facilitates and encourages the amicable settlements of disputes between employees and their employers involving conditions of employment.

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My request for the General Counsel to investigate is based on the following information from the FLRA website.

Title 5 U.S.C § 7118. Prevention of unfair labor practices

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7. Have you or anyone else raised this matter in any other procedure? ☒ No ☐ Yes If yes, where? [see reverse]

8. I DECLARE THAT I HAVE READ THIS CHARGE AND THAT THE STATEMENTS IN IT ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT MAKING WILLFULLY FALSE STATEMENTS CAN BE PUNISHED BY FINE AND IMPRISONMENT, 18 U.S.C. 1001. THIS CHARGE WAS SERVED ON THE PERSON IDENTIFIED IN BOX #3 BY [check "x" box] ☐ Fax ☒ 1st Class Mail ☒ In Person

☐ Commercial Delivery ☐ Certified Mail

Eugene Smith

Type or Print Your Name

Your Signature

05/12/2009

Date

**DESCRIPTION OF THE UNFAIR LABOR PRACTICE
INVESTIGATION PROCEDURE**

What happens after a charge is received by a Regional Office?

After a charge is received, it is docketed and given a case number. An opening letter is then sent to both parties with a copy of the charge, a notice of designation of representative form, and an information sheet on alternative dispute resolution services. Both parties are informed of their obligations to cooperate fully in the investigation and are encouraged to resolve informally the dispute that gave rise to the charge.

Can the charge be transferred to a different Regional Office?

Yes. Occasionally, when necessary to avoid unnecessary costs or delay and to effectuate the purposes of the Statute, a charge may be transferred to a different Regional Office. The charge is processed in the same manner regardless of the Region processing the charge.

When will I first speak with the Agent?

Soon after the charge is filed, the assigned Agent contacts both parties and: (1) clarifies the allegation(s) in the charge; (2) describes each party's obligation to cooperate in the investigation; (3) reviews each party's testimonial and documentary evidence; and (4) clarifies and determines whether official time is needed for any employees.

Will the Agent assist the parties in resolving the dispute that gave rise to the charge?

No. The General Counsel encourages the informal resolution by the parties of unfair labor practice allegations subsequent to the filing of a charge and prior to the issuance of a complaint by a Regional Director.

How will the charge be investigated?

The Regions use a variety of investigative techniques to obtain the best possible, relevant evidence. The investigation may involve: (1) an on-site visit and the taking of signed and affirmed affidavits and the gathering of documents; (2) the taking of affidavits over the telephone; (3) parties filling out signed and affirmed questionnaires; and (4) letters confirming information discussed telephonically. The RD relies upon this evidence in deciding whether or not the ULP charge has merit. Agencies are always notified before an Agent visits the workplace.

When are employees entitled to official time?

Employees deemed necessary by the Region to give evidence during the investigation are granted official time under section 7131(c) of the Statute. Employees requested to complete a questionnaire and to review a telephone affidavit also are entitled to reasonable official time. The Agent obtains clearance for use of such time with the agency. Official time to gather information during the course of the investigation depends upon the parties' contract and past practices and does not involve Regional Office authorization.

How do the parties cooperate with the Region during an investigation?

Cooperation includes, as determined by the Regional Director: (1) making union officials, employees and agency supervisors and managers available to give sworn/affirmed testimony regarding matters under investigation; (2) producing documentary evidence pertinent to the matters under investigation; and (3) providing statements of position in the matters under investigation.

What happens if a party does not cooperate in the investigation?

A Charging Party's failure to cooperate could result in a dismissal of the charge for insufficient evidence. A Charged Party's failure to cooperate, as requested, could result in the issuance and enforcement of an investigative subpoena.

When is an investigation completed?

An investigation is completed when each party has been given a reasonable opportunity to provide relevant evidence and there are sufficient facts for the Regional Director to render a decision on the merits of the charge.

What happens if the Regional Director determines that the charge does not have merit?

If the Regional Director determines that the charge does not have merit and therefore should be dismissed, both parties are notified. The parties are also informed that the charge will be dismissed within a reasonable amount of time unless a withdrawal request is submitted before the dismissal letter issues.

Can that dismissal decision be appealed?

Yes. A dismissal is appealable to the Office of the General Counsel in Washington, D.C. The General Counsel may dismiss the appeal and close the case or remand the case for further investigation or issuance of a complaint. The General Counsel's decision to deny an appeal and close a case is not subject to review.

What happens if the Regional Director determines that the charge has merit?

If the Regional Director determines that the evidence supports issuance of a complaint, the Region, as the public prosecutor, attempts to settle the charge prior to issuance of a complaint and notice of hearing which schedules the matter for trial before a FLRA Administrative Law Judge. The complaint sets forth the allegations to be prosecuted and is served on all parties to the charge. Settlement efforts may continue after the issuance of complaint up until the trial begins.



UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
NOTICE OF DESIGNATION OF REPRESENTATIVE

CASE NO.

TO: Regional Director,

I, the undersigned party, hereby designate as my representative in this proceeding, the person whose name and address appears below. Said representative is to be served copies of all formal documents and written communications in this proceeding, excepting subpoenas. This designation shall remain valid until a written revocation is filed by me.

Signature of party (please sign in ink)	Representative's name , address, zip code (print or type)	
Title		
	Area Code	Telephone Number



UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
DALLAS REGION

A. Maceo Smith Federal Building
525 S. Griffin Street, Suite 926, LB 107
Dallas, Texas 75202-5093
(214) 767-6266 Fax: (214) 767-0156
www.flra.gov

September 3, 2009

Eugene Smith
200 South McClendon Street
Forrest City, Arkansas 72335

Re: Department of Defense
United States Army
Washington, D.C.
Case No. DA-CA-09-0230

Dear Mr. Smith:

The unfair labor practice charge in this case was filed with the Dallas Regional Office on May 19, 2009. After consideration of the evidence and application of the law to the facts, issuance of a complaint is not warranted.

In this charge, as clarified during the investigation, you, as an individual, allege that the Department of Defense, U.S. Army, Washington, D.C. (Activity), violated section 7116(a)(1) and Section 7118 of the Federal Service Labor-Management Relations Statute (Statute) when it failed to pay you for your service to the U.S. Army.

In this charge, you contend that since 1969, you have been a participant in a behavioral study that has been run by the U.S. Army. To date, you have not been paid for your participation, and you contend that you were to have been contacted to be paid in 2005, after the study had been running for 35 years. You have written to the Army to request payment, but, to date, they have responded that they have no information that you have been in a study. You acknowledge that you have not received a pay check from the Federal Government, and the last employer from whom you received a paycheck was Commonwealth Edison in 1991. While you provided the FLRA with copies of credit reports from 2008 and 2009 that reflect that you were employed by the Army, Medical Research and Development in Frederick Maryland, and by the Department of Defense, they do evidence that you were employed in a position covered by the Statute.

Any charge alleging an unfair labor practice which is based on conduct or events which occurred more than six months before the filing of the charge is untimely under Section 7118(a)(4)(A) of the Statute, unless it is established that the respondent agency or labor organization prevented the person filing the charge from discovering the allegedly unlawful conduct within the six-month limitations period by concealment or by failing to perform a duty owed to the charging party. Any concealment or failure to perform a duty must have prevented the discovery of the unfair labor practice within six months of its occurrence. *United States Department of Labor*, 20 FLRA 296 (1985).

As regards the alleged failure to pay you starting in 2005, those allegations are not timely asserted in this charge which was filed on May 19, 2009. Moreover, to the extent the alleged failure to pay you in the last six months is timely asserted, the evidence does not support the conclusion that you were a civilian federal employee who is covered by the Statute, and thus, the evidence does not support the conclusion that your situation falls under the Statute. Lastly, even if you are an employee who is covered by the Statute, the Statute does not address alleged failure to pay wage cases based on the circumstances presented. I am, therefore, refusing to issue a complaint in this matter.

An appeal may be filed by mail or hand delivery with the Office of the General Counsel at the following address:


Federal Labor Relations Authority
Office of the General Counsel
Attn: Appeals
1400 K Street NW, Second Floor
Washington, DC 20424-0001

Whichever method of service is chosen, please note that **the last day for filing an appeal in this case is October 5, 2009**. This means that an appeal that is mailed must be postmarked, or an appeal must be hand delivered, **no later than October 5, 2009**. **Please send a copy of the appeal to the Regional Director.**

If more time is needed to prepare an appeal, a motion to request an extension of time may be filed. Mail or hand deliver the request for an extension of time to the Office of the General Counsel at the address listed above. Because a request for an extension of time must be **received** at least five days before the date the appeal is due, any mailed or hand-delivered request for an extension of time in this case must be **received** at the above address **no later than September 30, 2009**.

The procedures, time limits, and grounds for filing an appeal are set forth in the Authority's Regulations at section 2423.11(c) through (e) (Volume 5 of the Code of Regulations). 5 C.F.R. §2423.11(c)-(e). These regulations may be found in any Authority Regional office, public law library, some large general purpose libraries, Federal Personnel Offices, and the Authority's Home Page internet site - www.FLRA.gov. A document which summarizes commonly-asked questions and answers regarding the Office of the General Counsel's unfair labor practice appeals process has also been enclosed.

Very truly yours,


James E. Petrucci
Regional Director

Enclosure

cc: Gail Reinhart, U.S. Army, DAJA-LE, 1777 N. Kent Street, 10th Floor, Rosslyn, Virginia
22209

ATTACHMENT

QUESTIONS AND ANSWERS ABOUT UNFAIR LABOR PRACTICE APPEALS TO THE OFFICE OF THE GENERAL COUNSEL (OGC) FEDERAL LABOR RELATIONS AUTHORITY

Q #1: What are the grounds for granting an appeal and what must your appeal establish to be granted?

The grounds for granting an appeal are set forth in Section 2423.11(e) of the Rules and Regulations. An appeal may be granted if it establishes at least one of the following grounds:

- 1. The Regional Director's decision did not consider material facts that would have resulted in issuance of a complaint.**
- 2. The Regional Director's decision is based on a finding of a material fact that is clearly erroneous.**
- 3. The Regional Director's decision is based on an incorrect statement or application of the applicable rule of law.**
- 4. There is no Authority precedent on the legal issue in the case.**
- 5. The manner in which the Region conducted the investigation has resulted in prejudicial error.**

Q #2: What happens after the appeal is filed?

A letter acknowledging receipt of the appeal is sent to the Charging Party with a copy to the Charged Party. The appeals review includes a review of the appeal and the evidence in the file obtained during the investigation. Upon completion of the appeals review, the parties will receive a written Order signed by the General Counsel which either: 1) grants the appeal and orders further investigation of specific factual issues or issuance of a complaint over a specific violation; or 2) denies the appeal because none of the grounds for granting an appeal have been established.

Q #3: Does the appeal letter address each and every argument made in the appeal?

When an appeal is denied, the appeal decision is to affirm and adopt the Regional Director's determination of the material facts, the applicable law and rationale and reasoning for the finding that the evidence does not establish an unfair labor practice. Therefore, if the factual and legal issues have been correctly and sufficiently addressed by the Regional Director, the appeal determination letter does not restate this discussion. Rather, the appeal Order incorporates by reference the full discussion of the facts and the law as set forth in the Regional Director's dismissal letter. Similarly, if the appeal establishes that one of the grounds for review has been met, the appeal Order does not discuss each and every argument presented in the appeal. In those cases, the appeal Order granting an appeal sets aside the Regional Director's decision with a statement of the ground for granting the appeal and the future case processing action to be taken by the Regional Director.

Q #4: How long does the appeal review process take?

The OGC's goal is to issue an Order on the appeal within 60 days or less of the date on which the appeal is received.

Q #5: Once an appeal Order issues, are there appeal rights?

The decision on the appeal is final. Section 2423.11 of the Rules and Regulations sets forth the appeals process. Paragraph (g) of this section provides that the Charging Party may file a motion for reconsideration of the final decision if it can establish with particularity extraordinary circumstances which are supported by citations to Authority case law. The motion must be filed within 10 days after the date on which the General Counsel's decision is postmarked. The General Counsel's decision on a motion for reconsideration is final.

Q #6: Should evidence be included with the appeal?

No. All of the evidence that was given to the Region during the investigation is in the investigative file and will be reviewed. This evidence may be referred to in the appeal.

Q #7: May new evidence not given to the Region be submitted?

No. An appeals review is not *de novo*. No new evidence will be considered unless it can be established in the appeal that the evidence either did not exist during the investigation or the existence of the evidence could not have been reasonably known about.

Q #8: Can the merits of the appeal be discussed with anyone from the OGC while the appeal is pending?

No. The appeal process is not an investigative process. The decision will be based on the appeal and the investigative file. The OGC will notify the parties as soon as a decision is reached. If the appeal is granted, the case will be returned to the Regional Office and the parties will be contacted by the Region for further processing of the case.

Q #9: To whom can the parties speak if there are any questions about how the charge was processed and decided?

Parties may always contact the Regional Offices or the OGC if they have questions about the processing of a charge, do not understand the basis for the dismissal of a charge, or seek further assistance.

ULP DATA ENTRY (revised 7/16/2004)

CASE NUMBER: DA-CA-09 - 0230 DATE FILED: MAY 19 2009
 PROFESSIONAL ASSIGNED: (Code P1) BK DATE: 5/19
 PROFESSIONAL REASSIGNED: (Code P2) _____ DATE: _____
 PROFESSIONAL CO-ASSIGNED: (Code P3) _____ DATE: _____
 OPENING LETTER ISSUED: (Code O1) 05/20/09
 INITIAL ISSUE CODE: AA 2.01
 DISPOSITIVE ISSUE CODE: D01.01

DESCRIPTION (AN ENTRY MUST NOW BE MADE IN THIS BLOCK)

- ☐ Exec. Order; partnership activities or section 7106(b)(1)
- ☐ Raises novel or interesting issue
- ☐ Involves potentially sensitive issue
- ☐ Concerns an issue of nationwide impact which may cross Regional Office geographic or jurisdictional boundaries
- ☒ Injunction requested by Charging Party
- ☒ Not Applicable

COMMENTS: (e.g., Related Case Number or any other information region would like to add)

KEY WORD CODES: (INSERT APPLICABLE CODE NUMBER IN FOLLOWING ACTION TABLE)

Example: Withdrawal Solicitation was After RD Determination; record A2" for Withdrawal Solicitation

Withdrawal Solicitation

- 1a) Prior to RD determination w/supervisory approval
- 1b) Prior to RD determination w/o supervisory approval
- 2) After RD determination
- 3) Unsolicited withdrawal

Scope

- 1) Dispositive action without the taking of formal evidence
- 2) Dispositive action prior to completion of full investigation
- 3) Dispositive action after full investigation

Cooperation (by charged party)

- 1) Full cooperation with affidavits and witnesses
- 2) Agent talked to witnesses - no affidavits
- 3) Submission of documentary evidence
- 4) Submission of statement of position
- 5) Agent talked to charged party representative
- 6) Cooperation not required

Remedy

- 1) Backpay - dollar amount _____
- 2) Make whole - dollar amount _____
- 3) Status quo ante (bargaining)
- 4) retroactive bargaining
- 5) rescission of action (non-bargaining)
- 6) other traditional remedy - FLRA posting, cease & desist order, prospective order (cases involving formal discussion, Weingarten, dues withholding, (a)(1) statement, prospective bargaining)
- 7) novel remedy (i.e, supervisory training)
- 8) other

Method

- 1) On-site affidavits and evidence
- 2) Telephone affidavits
- 3) Sworn questionnaire
- 4) Confirming letters
- 5) Unsworn questionnaire
- 6) On-site conversation
- 7) Telephone conversation

Prosecutorial discretion

- 1) Yes
- 2) No

ACTION	DATE	ENTER KEY WORD CODE FROM LIST, CHECK, OR ENTER INFORMATION AS APPROPRIATE
Initial inquiry for injunctive relief (Code O2)		n/a
Expedited investigation for injunctive relief (Code O3)		n/a
Blocked (Code B1)		Blocked by Case No. _____
Unblocked (Code B2)		n/a
Transferred to		<input type="checkbox"/> AT (Code T1) <input type="checkbox"/> BN (Code T2) <input type="checkbox"/> CH (Code T3) <input type="checkbox"/> DA (Code T4) <input type="checkbox"/> DE (Code T5) <input type="checkbox"/> SF (Code T6) <input type="checkbox"/> WA (Code T7)
Transfer received by transferee Region (Code T8)		n/a
Withdrawal approved (Code W1)		<input type="checkbox"/> Withdrawal (Solicitation) <input type="checkbox"/> Cooperation <input type="checkbox"/> Method <input type="checkbox"/> Scope <input type="checkbox"/> Prosecutorial discretion
Withdrawal rescinded (Code W2)		n/a
Withdrawal approved B secondary disposition (withdrawal after prior action) (Code W3)		<input type="checkbox"/> Withdrawal (Solicitation) <input type="checkbox"/> Cooperation <input type="checkbox"/> Method <input type="checkbox"/> Scope <input type="checkbox"/> Prosecutorial discretion
Intervention started (Code I1)		n/a
Intervention ended (Code I2)		n/a
Advice requested (Code V1)		Injunction recommended by Region <input type="checkbox"/> Yes <input type="checkbox"/> No
Advice decided (Code V2)		Advice Memo No. _____ <input type="checkbox"/> Dismiss charge <input type="checkbox"/> Complaint <input type="checkbox"/> Further investigation <input type="checkbox"/> Telephone advice <input type="checkbox"/> GC injunction recommended to FLRA
Full dismissal (Code D1)	09/03/09	<input checked="" type="checkbox"/> Withdrawal (Solicitation) <input checked="" type="checkbox"/> Cooperation <input checked="" type="checkbox"/> Method <input checked="" type="checkbox"/> Scope <input checked="" type="checkbox"/> Prosecutorial discretion
Partial dismissal (Code D2)		<input type="checkbox"/> Withdrawal (Solicitation)
Full dismissal -- secondary disposition (dismissal after prior action) (Code D4)		<input type="checkbox"/> Withdrawal (Solicitation) <input type="checkbox"/> Cooperation <input type="checkbox"/> Method <input type="checkbox"/> Scope <input type="checkbox"/> Prosecutorial discretion

ACTION	DATE	ENTER KEY WORD CODE FROM LIST, CHECK, OR ENTER INFORMATION AS APPROPRIATE
Partial dismissal - secondary disposition (Code D5)		___ Withdrawal (Solicitation)
File sent by Dismissing Region to OGC for Appeals review (Code A21)		n/a
Appeal file received by Working Region from OGC (Code A37)		n/a
Appeal file received by Dismissing Region from OGC (Code A27)		n/a
Dismissal rescinded (Code D3)		n/a
Private settlement-- PSIWOC before RD merit determination (Code S1)		___ Withdrawal (Solicitation) ___ Cooperation ___ Method ___ Scope ___ Remedy
___ Precomplaint unilateral settlement (Code S2) ___ Precomplaint bilateral settlement) (Code S3) ___ Precomplaint private settlement (Code S4) (PSIWOC after RD merit determination)		___ Withdrawal (Solicitation) ___ Cooperation ___ Method ___ Scope ___ Remedy
___ Postcomplaint private settlement (PSIWOC post complaint) (Code S5) ___ Postcomplaint unilateral settlement (Code S6) ___ Postcomplaint bilateral settlement (Code S7) ___ Posthearing settlement (Code S8)		___ Remedy
Formal settlement (Code S9)		___ Remedy
___ Precomplaint unilateral settlement B secondary action (Code S10) ___ Precomplaint bilateral settlement) B secondary action (Code S11) ___ Precomplaint private settlement B secondary action (Code S12) (PSIWOC after RD merit determination) ___ Private settlement-- PSIWOC before RD merit determination (Code S13)		___ Withdrawal (Solicitation) ___ Cooperation ___ Method ___ Scope ___ Remedy
Stipulation filed with Authority (Code ST1)		n/a
Stipulation filed with ALJ		n/a
Stipulation record found insufficient by ALJ		n/a
ULP complaint or case in abeyance (Code X1)		
ULP complaint or appeal or case taken out of abeyance (Code X-3)		

ACTION	DATE	ENTER KEY WORD CODE FROM LIST, CHECK, OR ENTER INFORMATION AS APPROPRIATE
Complaint issued (Code C1) ULP Hearing scheduled (Code JO)		<input type="checkbox"/> Cooperation <input type="checkbox"/> Method <input type="checkbox"/> Scope <input type="checkbox"/> Hearing date <input type="checkbox"/> No date
Complaint issued B secondary disposition (complaint issued after prior action) (Code C3) ULP Hearing scheduled (Code JO)		<input type="checkbox"/> Cooperation <input type="checkbox"/> Method <input type="checkbox"/> Scope <input type="checkbox"/> Hearing date <input type="checkbox"/> No date
Request for Summary Judgment filed by OGC with ALJ (Code SJ1)		n/a
Request for Summary Judgment granted (Code SJ2)		<input type="checkbox"/> Remedy <input type="checkbox"/> OALJ Decision #
Motion for postponement of hearing (Code J1)		<input type="checkbox"/> GC <input type="checkbox"/> Charging Party <input type="checkbox"/> Respondent
Ruling on motion for postponement of hearing (Code J2)		<input type="checkbox"/> New hearing date <input type="checkbox"/> Indefinitely postponed
Complaint withdrawn (Code C2)		n/a
Hearing held -- (enter information on the Hearing screen using the Hearings Data Entry sheet)		n/a
ALJ decision (enter this information on the Hearing screen using the Hearing Data Entry sheet)		<input type="checkbox"/> Full violation <input type="checkbox"/> Partial violation <input type="checkbox"/> No violation
GC Exceptions filed (Code J6)		n/a
GC Opposition to exceptions filed (Code J7)		n/a
Cross-exceptions filed (Code J8)		n/a
FLRA ULP decision (Also complete Hearings Data Entry sheet)		<input type="checkbox"/> Citation <input type="checkbox"/> Full violation (Code A1) <input type="checkbox"/> Remedy <input type="checkbox"/> Partial violation (Code A2) <input type="checkbox"/> Remedy <input type="checkbox"/> No violation (Code A3) <input type="checkbox"/> Remanded to ALJ (Code A4)
Federal court appeal filed (Code CT1)		<input type="checkbox"/> Name of court
Federal court decision issued (Code CT2)		<input type="checkbox"/> Affirm <input type="checkbox"/> Reverse <input type="checkbox"/> Remand <input type="checkbox"/> Modify <input type="checkbox"/> Appeal withdrawn <input type="checkbox"/> Enforce

ACTION	DATE	ENTER KEY WORD CODE FROM LIST, CHECK, OR ENTER INFORMATION AS APPROPRIATE
Compliance initiated (Code C61)		
Noncompliance alleged (Code CM1)		n/a
Noncompliance action -- (Code CM2) referred to OGC for enforcement		n/a
Compliance completed (Code CM3)		n/a
Compliance not required -- Court decision no violation (Code CM4)		n/a

UNITED STATES OF AMERICA
BEFORE THE FEDERAL LABOR RELATIONS AUTHORITY
DALLAS REGION

STATE OF ARKANSAS	CASE NAME	DEPARTMENT OF DEFENSE
		U.S. ARMY

COUNTY OF ST. FRANCIS CASE NUMBER DA-CA-09-0230

AFFIDAVIT

I, Eugene Smith, living at


200 South McClendon Street
Forrest City, Arkansas 72335

telephone CELL 870-270-2546,

in cooperation with an official investigation being conducted pursuant to the Federal Service Labor-Management Relations Statute under oath, I do hereby make the following voluntary statement. I have been assured by an agent of the Federal Labor Relations Authority that this statement will be considered confidential by the United States Government and will not be disclosed unless it becomes necessary to produce the statement if I testify at a formal proceeding or if otherwise required by Federal law. If necessary, I will testify as follows:

I am currently employed by the U.S. Army in a Human Research Study, although I have not yet been paid for that. I am also receiving disability benefits. The last employer who gave me a paycheck was Commonwealth Edison. I stopped working from them in 1991.

While I have attempted to contact AFGE, I am not currently a member of any Union, to the best of my knowledge. AFGE did not accept my money.

 Initial

As the charging party in this case, I will provide the lead and clarifying affidavit. In this charge, I, as an individual, allege that the Department of Defense, U.S. Army, Washington, D.C. (Activity), violated section 7116(a)(1) and Section 7118 of the Federal Service Labor-Management Relations Statute (Statute) when it failed to pay me for my service to the U.S. Army. The above is all this charge is intended to allege, but if the Authority, upon review of my statement, finds evidence of any other violations of the Statute, I want them to be addressed by the Authority.

Factually, in 1969, I signed up to be in a study while I was attending Arkansas State University. I was told the study would be run by the U.S. Army. I was told it would be a behavior study. My participation in the study has been non-stop since about January of 1970. I have never been paid for my participation. The agreement was that I was to be contacted to be paid in 2005, after the study had been running for 35 years. I do not know the name of the sponsor in the Army that was conducting the study.

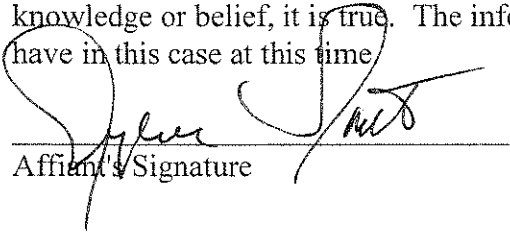
There were no criteria that I had to do, and instead, the study was to have the Army review my daily habits. I discovered, in or around 2000, that the Army placed something in my head. This was based on my visit to a hospital around 2000. I have written to the Army to request payment, but they have responded that they had no information from me that I had been in any study.

My bottom line in this charge is that I assert that the Army owes me money for my participation in their study from 1970 through today as the study is still on-going. I do not know the exact amount I am owed. I submitted several FOIA request to DOD and to the Army, and all have been negative.

I have never received a pay check from the Federal Government, but I do currently receive a disability check. I assert that the Army should have contacted me in 2005, but didn't, that it should have paid me, but it hasn't, and I look to the Authority to remedy this situation.

I will provide the FLRA with copies of credit reports from 2008 and 2009 from Trans Union that reflect that I was employed by the Army, Medical Research and Development in Frederick Maryland, by the Department of Defense. *Also. A letter from ARKANSAS STATE UNIVERSITY AT JONESBORO, ARKANSAS IS ENCLOSED.*

I have read the above statement consisting of 2 pages, and, under oath say, to the best of my knowledge or belief, it is true. The information I provided in this affidavit is all the evidence I have in this case at this time


Affiant's Signature

AUGUST 20, 2009
Date

FILE INFORMATION

File Number: 182615621
Date issued: 01/03/2008

Name: EUGENE B. SMITH

SSN:
Date of Birth:XXX-XX-5212
01/1952

You have been on our files since 10/1971

Telephone

630-8980

Your SSN is partially masked for your protection

CURRENT ADDRESS

Address: 200 S. MCCLENDON ST.
FORREST CITY, AR 72335

Date Reported: 09/2004

PREVIOUS ADDRESSES

Address: 1452 PO BOX 1452
FORREST CITY, AR 72336

Date Reported: 05/2004

Address: 748 ANNETTE ST.
FORREST CITY, AR 72335

EMPLOYMENT DATA REPORTED

Employer Name: US ARMY MED RESEARCH & DEVELOPMENT
Location: FREDERICK, MD
Date Reported: 10/2005Position: SGRD HR
Date Hired:Employer Name: EXELON
Date Reported: 04/2002Position:
Date Hired:Employer Name: DEPARTMENT OF DEFENCE
Location: WASHINGTON, DC
Date Reported: 03/2000Position:
Date Hired:Employer Name: ASSISTANT SECRETARY OF THE ARMY
Location: WASHINGTON, DC
Date Reported: 05/1975Position:
Date Hired: 04/1971

Special Notes: Your Social Security number has been masked for your protection. You may request disclosure of the full number by writing to us at the address found at the end of this report. Also if any item on your credit report begins with 'MED1', it includes medical information and the data following 'MED1' is not displayed to anyone but you except where permitted by law.

Public Records

The following items obtained from public records appear on your report. You may be required to explain public record items to potential creditors. Any bankruptcy information will remain on your report for 10 years from the date of the filing. Unpaid tax liens may generally be reported for an indefinite period of time depending on your state of residence. Paid tax liens may be reported for 7 years from date of payment. All other public record information, including discharged chapter 13 bankruptcy, remains for up to 7 years.

[REDACTED]

<https://annualcreditreport.transunion.com/products/single/viewPrintableReport.jsp?printView...> 1/3/2008

JANUARY 2008

CASE NUMBER - DA-CA-09-0230

JUNE 2009

File Number: 182615621
Page: 1 of 8
Date Issued: 06/05/2009

TransUnion.

Personal Information

Name: EUGENE SMITH

You have been on our files since 10/1971

SSN: XXX-XX-5212
Date of Birth: 01/1952
Telephone: 270-2546
Your SSN is partially masked for your protection.

CURRENT ADDRESS

Address: 200 S MCCLENDON ST
FORREST CITY, AR 72335
Date Reported: 09/2004

PREVIOUS ADDRESS

Address: 1452 PO BOX 1452,
FORREST CITY, AR 72336
Date Reported: 08/2004
Address: 748 ANNETTE ST
FORREST CITY, AR 72335

EMPLOYMENT DATA REPORTED

Employer Name: RETIRED
Location: WASHINGTON, DC
Date Verified: 05/1975

Position:
Hired: 04/1971

Employer Name: US ARMY MED RESEARCH & DEVELOPMEN
Location: FREDERICK, MD
Date Reported: 10/2006

Position: SGRD HR
Hired:

Employer Name: EXELON
Date Reported: 04/2002

Position:
Hired:

Employer Name: DEPARTMENT OF DEFENCE
Location: WASHINGTON, DC
Date Reported: 03/2000

Position:
Hired:

Special Notes: Your Social Security number has been masked for your protection. You may request disclosure of the full number by writing to us at the address found at the end of this report. Also, if any item on your credit report begins with 'MED1', it includes medical information and the data following 'MED1' is not displayed to anyone but you except where permitted by law.

Public Records

The following items obtained from public records appear on your report. You may be required to explain public record items to potential creditors. Any bankruptcy information will remain on your report for 10 years from the date of the filing. Unpaid tax liens may generally be reported for an indefinite period of time depending on your state of residence. Paid tax liens may be reported for 7 years from date of payment. All other public record information, including discharged chapter 13 bankruptcy, remains for up to 7 years.

CASE NUMBER - DA - CA - 09 - 0230



P.O. Box 189
State University, AR 72467-0189

Phone:
870-972-2048

Fax:
870-972-3002

www.astate.edu

Jonesboro, Arkansas

July 19, 2004

To Whom It May Concern:

I would like to inform you that there are no medical records on file at Arkansas State University for Mr. Eugene Smith, 429-02-5212. No records were found under the name or social security number that was provided. Mr. Smith has been assigned to no government program since 1969-70. If you have any questions regarding this matter, you may contact me at any time.

Sincerely,

A handwritten signature in black ink, appearing to read 'William R. Stripling', written over a horizontal line.

William R. Stripling, Ph.D.
Vice Chancellor for Student Affairs

WRS/bs

Xc: Les Wyatt
Lonnie Williams
Pam Kail
Linda Farris

CASE NUMBER - DA-CA-09-0230

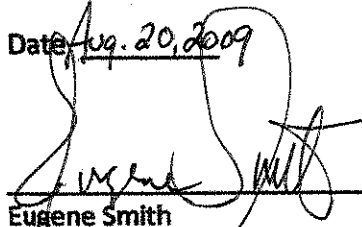
Declaration Under 28 U.S.C. 1746

Declaration

I, Eugene Smith, do hereby declare:

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date Aug. 20, 2009

A handwritten signature in black ink, appearing to read "Eugene Smith", is written over a horizontal line.

Signature

Eugene Smith

200 S. McClendon St.

Forrest City, Arkansas 72335

901-246-9563

870-270-2546

FAX

Date: 6/1/2009

Pages including cover sheet: 3

To:	William D. Kirsner
Phone	
Fax Number	+1 (214) 767-0156

From:	Eugene Smith
	Genealena & Associates, LL
	200 South McClendon St.
	Forrest City
	AR 72335
Phone	{ Sender Phone }
Fax Number	(888) 870-3060

NOTE:

William D. Kirsner Attorney
 United States of America
 Federal Labor Relations Authority
 Dallas Region
 525 South Griffin Street, Suite 926, LB 107
 Dallas, TX 75202-5093
 (214) 767-6266 Phone
 (214) 767- 0156 Fax

Eugene Smith
200 South McClendon Street
Forrest City, Arkansas 72335

May 30, 2009

United States of America
Federal Labor Relations Authority
Dallas Region
525 South Griffin Street, Suite 926, LB 107
Dallas, TX 75202-5093
(214) 767-6266 Phone
(214) 767- 0156 Fax

Reference: Case # DA-CA-09-0230 Eugene Smith v. Department of Defense/ U.S Army

Dear William D. Kirsner Attorney FLRA

United States Army Surgeon General LTG Eric B. Schoomaker Surgeon General/Commander,
U.S Army Medical Command.
Office of the Surgeon General
5109 Leesburg Pike
Falls Church, VA 22041-3258
Telephone 703-681-0497

I expect that this office will point you to someone who can explain to you why I have not received pay.

I have been a civilian employee of the U.S Army/U.S Department of Defense since 1969. The deferred employee payroll agreement calls for me to receive pay and benefits after December 2005. The armed Services are four years in fiduciary default of payment. The U.S Army/ U.S Department of Defense have no intension of paying what is owed to me for the last 39 years. The office is head of all medical research in the United States. No Research is approved unless it goes through that office. The U.S Army is interfering with the communication with the American Federation of Government Employees. I have called AFGE and left messages about joining. The U.S Army refusal to honor request under 5 U.S.C 552, 552(a) FOIA has resulted in denial of information to get a union membership. Without the release of employment information from the U.S Army I cannot join the desired labor union. The Landrum- Griffin Act of 1959 states that management cannot refuse to report on the relationship with an employee as stated in the Labor-Management and Reporting Disclosure Act.

What the U.S Army/ U.S Department of Defense are doing is concealing employment information to deny the (me) the employee membership in the American Federation of Government Employee union in which he is entitled to join.

The U.S Army/ U.S Department of Defense are in violation of the National Labor Relations Act of 1935 enacted to govern labor-management relations. The NLRA purpose is as stated: The general objective of the act to guarantee to employees "the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid and protection." To safeguard these rights and to ensure the orderly exercise of them, the act created the National Labor Relations Board (NLRB), which, among other powers,

has the authority to prevent employers from engaging in certain specified unfair labor practices. Examples of such practices are acts of interference, restraint, or coercion upon employees with respect to their right to organize and bargain collectively; domination of or interference with the formation or administration of any labor organization, or the contribution of financial or other support thereto; discrimination in regard to hiring or dismissal of employees or to any term or condition of employment, in order to encourage or discourage membership in any labor organization; discrimination against any employee for filing charges or giving testimony under the provisions of the act". These people have been restraining and interfering with my attempts to join a union.

Therefore, the United States Army and United States Department of Defense Prohibited (me) the employee from seeking a collective Bargaining Agreement with the American Federation of Government Employees violating the National Labor Relations Act and the Taft- Hartley Act. For all of these reasons I am charging the U.S Army/ U.S Department of Defense with unfair labor Practices.

United States Secretary Of The Army Pete Geren
104 Army Pentagon
Washington, D.C 20530
703-704-4357

Robert Gates U.S Secretary of Defense
1400 Defense Pentagon
Washington, D.C 20301-1400
703-545-6700

The Secretary of Defense Robert Gates is the head of the United States Army.

Sincerely
Eugene Smith
(870) 270-2546
(901) 246-9536